

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

HSBC BANK USA, N.A., AS TRUSTEE,

Plaintiff,

v.

**ROBERT LEE WALLACE, MELONY
MADDING BARNES, AMY ROCHELLE
SLONE, JAMES DAVID SLONE,
ANGELA DENISE VARELA, KELLY
DIANE WALLACE (AKA KELLY
DIANE GRAY), CHRISTY L. CALVIN,
FELICIA D. SCHROEDER, THE
UNKNOWN HEIRS AT LAW OF
CRYSTAL R. WALLACE, DECEASED,**

Defendants.

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§ **CIVIL ACTION NO. 6:15-CV-00473-**
§ **RWS- JDL**

**ORDER ADOPTING REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

The above entitled and numbered civil action was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. On October 21, 2016, the Magistrate Judge issued a Report and Recommendation (Doc. No. 38), recommending that Plaintiff HSBC Bank USA, N.A.’s, as Trustee on Behalf of Ace Securities Corp. Home Equity Loan Trust and for the Registered Holders of Ace Securities Corp. Home Equity Loan Trust, Series 2006-HE3, Asset Backed Pass-Through Certificates (“HSBC Bank” or “Plaintiff”) Motion for Default Judgment (Doc. No. 34) against Defendants Robert Lee Wallace, Melony Madding Barnes, Amy Rochelle Slone, James David Slone, Angela Denise Varela, Kelly Diane Wallace (a/k/a Kelly D. Gray), Christy L. Calvin, and Felicia D. Schroeder (collectively “Defendants”) be granted. (Doc. No. 38 at 6). The Magistrate Judge further ordered that the Report and Recommendation be

immediately served on Defendants. *Id.* On October 24, 2016 Plaintiff filed a notice of service of the Report and Recommendation on Defendants. (Doc. No. 39). The Report and Recommendation informed the parties of their rights to object to those findings within 14 days and further informed the parties that a failure to timely object “shall bar that party from *de novo* review by the district judge of those findings, conclusions and recommendations and, except on grounds of plain error, from appellate review of unobjected-to factual findings and legal conclusions accepted and adopted by the district court.” (Doc. No. 38 at 6–7 (citing *Douglass v. United States Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996))). Since the service of the Report and Recommendation on October 24, 2016, no party has filed objections, and the prescribed time period for doing so has passed.

Nonetheless, having reviewed the Magistrate Judge’s findings, the Court agrees with the Magistrate Judge’s findings. The Magistrate Judge found that Defendants were properly served by a server of process (Doc. Nos. 7–14), that Defendants have failed to timely answer or otherwise respond, and that the Clerk of Court has made an entry of default (Doc. No. 20). (Doc. No. 38, at 4). The Magistrate Judge also found that Plaintiff’s Complaint sufficiently pleads its cause of action for its statutory probate lien and for non-judicial foreclosure pursuant to the terms of the Loan Agreement and Texas Property Code § 51.002 (Doc. No. 1 at ¶¶ 1–29), and that Plaintiff’s Complaint makes a *prima facie* showing of jurisdiction (Doc. No. 1 at ¶¶ 1–18). (Doc. No. 38, at 4). Weighing the relevant considerations, the Magistrate Judge then found that Plaintiff was entitled to default judgment. (Doc. No. 38, at 4–5). Further, the Magistrate Judge, applying the Fifth Circuit’s “lodestar” method for calculating attorney’s fees, found that Plaintiff’s request for fees was reasonable and that Plaintiff is entitled to \$6,262.00 in attorneys’ fees. (Doc. No. 38, at 5–6). The Court finds no plain error in these determinations.

Accordingly, it is **ORDERED** that Plaintiff's Motion for Default Judgment as to Defendants Robert Lee Wallace, Melony Madding Barnes, Amy Rochelle Slone, James David Slone, Angela Denise Varela, Kelly Diane Wallace (a/k/a Kelly D. Gray), Christy L. Calvin, and Felicia D. Schroeder (Doc. No. 34) be **GRANTED**. It is further **ORDERED** that Plaintiff shall immediately serve a copy of this Order on Defendants, and within **14 days** of the issuance of this Order, submit a proposed final judgment.

SIGNED this 6th day of January, 2017.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE